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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/001,446

10/31/2001

Richard Paul Tarquini

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09/30/2005

HEWLETT-PACKARD COMPANY

Intellectual Property Administration

P.O. Box 272400

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EXAMINER

LASHLEY, LAUREL L

ART UNIT

PAPER NUMBER

2132

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001,446

Applicant(s)

TARQUINI ET AL.

Examiner

Laurel Lashley

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 1-17 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions was required under 35 U.S.C. 121:
 - I. Claims 1 – 10, drawn to a network having a intrusion protection system, classified in class 726, subclass 23.
 - II. Claims 11 – 17, drawn to transmitting an update message to a subset of nodes of a plurality of network nodes, classified in class 713, subclass 163.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions listed as Group I, and Group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable.

In the instance case, invention has separate utility such as follows:

Group I: A network having an intrusion protection system may update each node one at a time.

Group II: A method of transmitting and executing an update message to a subset of nodes of a plurality of network nodes may be used to update nodes not running an intrusion protection system. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. During a telephone conversation with a representative of Hewlett-Packard on behalf of L. Joy Griebenow on 19 September 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1 –10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11 – 17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

8. Claims 1 – 10 have been examined. Claims 11 – 17 are withdrawn from consideration.

Information Disclosure Statement

9. The information disclosure statements (IDS) submitted on 01 July 2003, 22 September 2003 and 03 January 2005 were filed before the mailing date of the first

Office Action. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements and Search Report are being considered by the examiner.

Claim Objections

10. Claim 1 is objected to because of the following informalities:
- Recitation of "...a intrusion..."; "a" should be --an--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
12. Claim 5 recites the limitation "each" in line 25 when only "a management node" which implies one management node was disclosed in Claim 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1 –10 are rejected under 35 U.S.C. 102(b) as being anticipated by Holloway, et al. in US Patent 5,905,859 (hereinafter US '859).

As it pertains to Claim 1, US '859 teaches:

A network having a intrusion protection system (*see column 2, lines 54 – 55*),
comprising:

a network medium (*see column 17, lines 66 – 67*);

a management node connected to the network medium and running an intrusion prevention system management application (*see column 18, lines 32 – 33; where the network management station is the management node and it is inherent that a detection means application is running*); and

a plurality of nodes connected to the network medium and running an instance of an intrusion protection system application (*see Figure 16; where each managed hub signifies a node*), at least one of the nodes having an identification assigned thereto based on a logical assignment grouping one or more of the plurality of nodes, each node sharing an identification being commonly vulnerable to at least one network exploit (*see column 3, lines 4 – 5; where the MAC address is the ID and each node has an authorized address*).

For Claim 2, US '859 teaches:

The network according to claim 1, wherein the management node is operable to originate a security update that is transmitted to each node sharing the identification, any remaining nodes not sharing the identification being excluded from receiving the update (*see column 8, lines 8 –10; where each nodes copies the group address*).

For Claim 3, US '859 teaches:

The network according to claim 1, wherein a plurality of identifications are respectively assigned to one or more of the plurality of nodes (*see Figure 16; where each hub is in a differing location that can be used as a form of identification (e.g. building, department, floor)*)).

For Claim 4, US '859 teaches:

The network according to claim 1, wherein the identification is an Internet Protocol multicast group identification (*see column 2, line 61; where the ID is a multicast/group address also referred to as the LAN security feature group address*).

For Claim 5, US '859 teaches:

The network according to claim 2, further comprising:

a plurality of network mediums (*see column 17, lines 66 – 67*); and
at least one router (*see Figure 16*), each of the management node and the plurality of nodes each respectively connected to one of the plurality of network mediums in the network, the router disposed intermediate the plurality of network mediums and operable to forward the security update from the network medium having the management node connected thereto to any nodes connected to the remaining network mediums and sharing the identification (*see column 15, lines 34 – 38*).

For Claim 6, US '859 teaches:

The network according to claim 5, wherein the router determines whether any of the plurality of nodes connected to the remaining network mediums share the identification

through implementation of the Internet group management protocol (*see column 15, lines 30 – 32*).

For Claim 7, US '859 teaches:

The network according to claim 1, wherein the network medium is an Ethernet (*see column 15, lines 50 – 51*).

For Claim 8, US '859 teaches:

The network according to claim 1, further comprising a network-based intrusion protection system appliance dedicated to filtering inbound and outbound data frames transmitted across the network medium (*see column 18, lines 10 – 13; where the discovery request/response frames act as inbound and outbound frames*).

For Claim 9, US '859 teaches:

The network according to claim 8, wherein the network-based intrusion protection system appliance interfaces with the network medium via a network interface card operating in promiscuous mode (*see Figure 3 and column 5, line 16*).

For Claim 10, US '859 teaches:

The network according to claim 8, wherein the network-based intrusion protection system appliance shares the identification (*see column 18, lines 1 – 4; where a list is maintained*).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6,304,973 as anticipated by Williams discloses drawings and claims that parallel the Applicant's invention.

Art Unit: 2132

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurel Lashley whose telephone number is 571-272-0693. The examiner can normally be reached on 7:30 am - 5 pm.

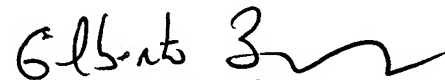
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, Jr. can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laurel Lashley
Examiner
Art Unit 2132

19 September 2005

 LLL



GILBERTO BARRON JR.
SUPERVISORY PATENT EXAMINER
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